IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 199 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

N. J. METAL SCREENS MFG. PVT. LTD.

Appearance:

MR BB NAIK for MR MANISH R BHATT for Petitioner No. 1

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following two

questions have been referred to this court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' under the provisions of sec. 256(2) of the Income-tax Act, 1961 (hereinafter referred to as'the Act').

1. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in coming to the conclusion that the assessee was entitled to the interest u/s 214 of the I.T. Act?

2. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in coming to the conclusion that the assessee was entitled to interest u/s 214 of the I.T. Act for the period subsequent to the date of original assessment order also?

2. Learned advocate Shri B.B. Naik has appeared for the applicant whereas nobody has appeared for the respondent assessee, though served.

3. While coming to the conclusion that the assessee was entitled to interest under the provisions of sec. 214 of the Act, the tribunal had relied upon a judgment delivered by this court in case of Bardolia Textile Mills v. ITO, 151 ITR 389. The Tribunal, therefore, came to the conclusion that the assessee was entitled to interest under the provisions of sec. 214 of the Act.

4. Learned advocate Shri Naik has drawn our attention to the fact that during pendency of the reference, the Hon'ble Supreme Court has not approved the ratio of the judgment delivered by this court in Bardolia Textile Mills (supra). He has drawn our attention to the judgment delivered by the Hon'ble Supreme Court in case of Modi Industries Ltd. & Ors. v. C IT and anr., 216 ITR 759. Looking to the facts of the case, it is very clear that the assessee could not have been awarded interest under the provisions of sec. 214 of the Act.

5. In view of the law laid down by the Hon'ble Supreme Court in case of Modi Industries Ltd. (supra), we answer both the questions in the negative i.e. in favour of the revenue and against the assessee.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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